



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0119]

Agency Information Collection Activities; Request for Comments;

Revision and Renewal of an Approved Information Collection: Medical

Qualification Requirements

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval. The FMCSA requests to revise and renew an ICR titled, “*Medical Qualification Requirements*,” due to updated information for several of the Information Collections (ICs) discussed. This ICR is needed to ensure that drivers, motor carriers and the States are complying with the physical qualification requirements of commercial motor vehicle (CMV) drivers. The information collected is used to determine and certify driver medical fitness and must be collected in order for our highways to be safe. On April 27, 2018, FMCSA published a 60-day notice (83 FR 18640) requesting comment on the renewal of this ICR. In response to this notice, eight comments were received. However, none of the comments were related to information collection activities or the renewal of this ICR.

DATES: Please send your comments by **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION OF THIS NOTICE IN THE FEDERAL REGISTER]**.

OMB must receive your comments by this date in order to act quickly on the ICR.

ADDRESSES: All comments should reference Federal Docket Management System (FDMS) Docket Number FMCSA-2018-0119. Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/Federal Motor Carrier Safety Administration, and sent via electronic mail to oir_submission@omb.eop.gov, or faxed to (202) 395-6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, N.W., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, Department of Transportation, Federal Motor Carrier Safety Administration, 6th Floor, West Building, New Jersey Avenue, S.E., Washington, DC 20590-0001. Telephone: (202) 366-4001, Email Address: fmcsamedical@dot.gov. Office hours are 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Medical Qualification Requirements

OMB Control Number: 2126-0006.

Type of Request: Revision and renewal of a current approved information collection.

Respondents Commercial motor vehicle drivers, motor carriers, medical examiners, testing centers.

Estimated Number of Respondents: 65,503,280

Expiration Date: August 31, 2018

Estimated Total Annual Burden: 2,395,315 hours

This information collection is comprised of the following five information collection activities.

Physical Qualification Standards

1,892,700 annual burden hours

4,813,510 annual respondents

Resolution of Medical Conflict

11 annual burden hours

3 annual respondents

Medical Exemptions

4,430 annual burden hours

7,332 annual respondents

SPE Certificate Program

2,714 annual burden hours

2,426 annual respondents

National Registry of Certified Medical Examiners

495,460 annual burden hours

680,009 annual respondents

BACKGROUND: CMVs (trucks and buses) are longer, heavier, and more difficult to maneuver than automobiles, making them a threat to highway safety if not operated properly by qualified individuals. The public interest in, and right to have, safe highways requires the assurance that drivers of CMVs can safely perform the increased physical and mental demands of their duties. FMCSA's medical standards provide this assurance

by requiring drivers to be examined and medically certified as physically and mentally qualified to drive. Therefore, information used to determine and certify driver medical fitness must be collected. FMCSA is the Federal government agency authorized to require the collection of this information. FMCSA is required by statute to establish standards for the physical qualifications of drivers who operate CMVs in interstate commerce for non-excepted industries [49 U.S.C. 31136(a)(3) and 31502(b)]. The regulations discussing this collection are outlined in the Federal Motor Carrier Safety Regulations (FMCSRs) at 49 CFR 390-399.

Below is a brief description of the included IC activities and how the information is used.

Physical Qualification Standards

FMCSRs at 49 CFR § 391.41 set forth the physical qualification standards that interstate CMV drivers who are subject to part 391 must meet, with the exception of commercial driver's license/commercial learner's permit (CDL/CLP) drivers transporting migrant workers (who must meet the physical qualification standards set forth in 49 CFR § 398.3). The FMCSRs covering driver physical qualification records are found at 49 CFR § 391.43, which specify that a medical examination be performed on CMV drivers subject to part 391 who operate in interstate commerce. The results of the examination shall be recorded in accordance with the requirements set forth in that section. The current provisions of 49 CFR § 391.51 and 398.3 require that a motor carrier retain the Medical Examiner's Certificate (MEC), Form MCSA-5876, in the driver's qualification (DQ) file for 3 years. The certificate affirms that the driver is physically qualified to drive a CMV in interstate commerce.

Due to potential onset of new conditions or changes in existing conditions that may adversely affect a driver's ability to drive safely and/or cause incapacitation that could be a risk to public safety, periodic re-evaluation and recertification is required to assess driver physical qualification. MECs may be issued for up to 2 years after the date of examination. However, drivers with certain medical conditions must be certified more frequently than every 2 years. Medical Examiners (MEs) have discretion to certify for shorter time periods on a case-by-case basis for medical conditions that require closer monitoring or that are more likely to change over time. In addition, the Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users requires MEs to transmit to FMCSA's Chief Medical Officer, electronically and on a monthly basis, driver information and results of any CMV driver medical examinations conducted during the previous month. MEs are required to maintain records of the CMV driver medical examinations they conduct. FMCSA does not require MEs to maintain these records electronically. However, there is nothing to preclude a ME from maintaining electronic records of the medical examinations he/she conducts. FMCSA is continuously evaluating new information technology in an attempt to decrease the burden on motor carriers and MEs. Less frequent collection of driver data, Medical Examination Report Forms, MCSA-5875, and MECs would compromise FMCSA's ability to determine ME compliance with FMCSA's physical qualification standards and guidelines in performing CMV driver medical examinations, which could result in MEs listed on the National Registry of Certified Medical Examiners who should be removed and possibly drivers that don't meet the physical qualification standards possessing an MEC. Less frequent data collection would also result in decreased validity of the data (i.e., less frequent data

submission may increase the error rate due to unintentional omission of examination information). Therefore, less frequent collection of driver examination results is not an option.

Resolution of Medical Conflict

The medical conflict provision provides a mechanism for drivers and motor carriers to request that FMCSA make a final decision to resolve conflicting medical evaluations when either party does not accept the decision of a medical specialist. If two MEs disagree about the medical certification of a driver, the requirements set forth in 49 CFR § 391.47 mandate that the applicant (driver or motor carrier) submit a copy of a report including results of all medical testing and the opinion of an impartial medical specialist in the field in which the medical conflict arose. The applicant may, if they choose to do so, submit the information above using fax and/or email. FMCSA uses the information collected from the applicant, including medical information, to determine if the driver should or should not be qualified. Without this provision and its incumbent driver medical information collection requirements, an unqualified person may be permitted to drive and qualified persons may be prevented from driving.

Medical Exemptions and Skill Performance Evaluation (SPE) Certificates

FMCSA may, on a case by case basis, grant a medical exemption from a physical qualification standard set forth in 49 CFR § 391.41, if the Agency determines the exemption is in the interest of the public and would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with the regulation. Individuals with limb impairments are permitted to operate a CMV, but only when they are otherwise qualified and are granted a Skill Performance Evaluation (SPE)

certificate by FMCSA. Title 49 CFR § 381.310 establishes the procedures that persons must follow to request exemptions from FMCSA safety regulations. Without an exemption, individuals who do not meet the requirements in 49 CFR § 391.41 would not be qualified to operate a CMV in interstate commerce. The application process for all exemptions currently provides for electronic collection of the application information by FMCSA for those applicants that choose to do so. They are able to fax or scan and email documents to FMCSA. In addition, the Diabetes and Vision Exemption Programs and the SPE Certificate Program maintain a database of application information. The Medical Programs Division maintains a database of application information for hearing and seizure exemptions. FMCSA must collect medical information about the driver's medical condition in order to determine eligibility to receive an exemption or an SPE certificate. The Agency requires all exemptions be renewed every 2 years to ensure that the granting of the exemption does not diminish safety under 49 CFR § 381.310. Exemption holders are required to submit annual medical information for review to ensure the driver continues to meet the physical qualification requirements. In the interest of highway safety, the medical examination, exemption, and SPE renewal should not be performed less frequently.

The National Registry of Certified Medical Examiners (National Registry)

The National Registry requires MEs that conduct physical qualification examinations for interstate CMV drivers to complete training concerning FMCSA physical qualification standards, pass a certification test, and maintain competence through periodic training and testing, all of which require information collection. ME candidates submit demographic and eligibility data in order to register on the National

Registry website to begin the certification process. This data is used to provide the public with contact information for those medical professionals who are certified by FMCSA to conduct interstate CMV driver medical examinations. Less frequent collection of ME candidate test results and identity and eligibility information means that there are less healthcare professionals attempting to become certified which would result in fewer certified MEs being available to the CMV driver and motor carrier population. This could place a huge burden on drivers and motor carriers to find certified MEs to perform their medical examinations. Therefore, less frequent collection of ME candidate test results and identity and eligibility information is not an option. MEs must provide specific driver medical examination information for every driver they examine on medical forms required by FMCSA and into the National Registry. Drivers must provide identification and health history information on medical forms required by FMCSA. The purpose for providing this information is to enable the ME to determine if the driver is medically qualified under 49 CFR § 391.41 and to ensure that there are no disqualifying medical conditions that could adversely affect their safe driving ability or cause incapacitation constituting a risk to the public. If this information was not required, the threat to public safety would be immense and unacceptable.

The National Registry also requires motor carriers to verify the national registry number of the MEs who certify their drivers and place a note in the DQ file. Less frequent verification of the national registry numbers by motor carriers would mean drivers may not have been examined by a certified ME listed on the National Registry and they may no longer meet the physical qualifications standards of the FMCSRs even though they were previously certified as physically qualified.

As a follow-on rule to the National Registry, the *Medical Examiner's Certification Integration* final rule, (80 FR 22790), modified several of the requirements adopted in the National Registry final rule, some of which have a scheduled compliance date of June 22, 2018. Specifically, it requires (1) FMCSA to electronically transmit from the National Registry to the State Driver's Licensing Agencies (SDLAs) the driver identification information, examination results, and restriction information from examinations performed for holders of CLPs/CDLs (interstate and intrastate); (2) FMCSA to transmit electronically to the SDLAs the medical variance information for all CMV drivers; and (3) SDLAs to post the driver identification, examination results, and restriction information received electronically from FMCSA.

However, as the *Medical Examiner's Certification Integration* final rule compliance date of June 22, 2018, approached, FMCSA reluctantly concluded that it would not be able to electronically transmit MEC information from the National Registry to the SDLAs nor would the SDLAs be able to electronically receive the MEC information from the National Registry for posting to the CDLIS driver record as intended by the *Medical Examiner's Certification Integration* final rule. Due to a number of delays including an incident that occurred in early December 2017 causing the Agency to take the National Registry offline leading to interruptions in the development of the process for the electronic transmission of MEC information and medical variances, the final specifications for the electronic transmission of MEC information have not been completed. Under these circumstances, neither the Agency nor the stakeholders would be able to rely on the CDLIS driver record as official proof of medical certification unless MEs continue to issue the original paper MEC to qualified drivers and drivers continue to

provide the MEC to the SDLAs, as is being done presently. All of the functions regarding electronic transmission of data that were to be implemented on June 22, 2018, are dependent upon the implementation of information technology infrastructure that was not available on June 22, 2018. For this reason, on June 21, 2018, FMCSA published a notice (83 FR 28774) extending the compliance date for several of the provisions in the *Medical Examiner's Certification Integration* final rule (80 FR 22790) to June 22, 2021, to ensure that the SDLAs have sufficient time once the final specifications are released to make the necessary information technology programming changes. However, beginning on June 22, 2018, certified MEs are still required to report results of all completed CMV drivers' medical examinations (including the results of examinations where the driver was found not to be qualified) to FMCSA by midnight (local time) of the next calendar day following the examination but must continue issuing the original paper MEC to qualified drivers. All CMV drivers should continue to provide the SDLA with their MEC as proof of medical certification. As a result of this extension, there are no additional annual burden hours or costs to respondents imposed by the *Medical Examiner's Certification Integration* final rule during the first 6 years of implementation of the final rule. Therefore, all the IC activities imposed on the MEs, drivers, and motor carriers over the first 6 years of implementing the *Medical Examiner's Certification Integration* final rule will remain unchanged.

On April 27, 2018, FMCSA published a 60-day notice (83 FR 18640) requesting comment on the renewal of this ICR. In response to the notice, eight comments were received. However, none of the comments were related to information collection activities or the renewal of this ICR.

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the FMCSA to perform its functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority delegated in 49 CFR 1.87 on: July 20, 2018.

G. Kelly Regal,
Associate Administrator for Office of
Research and Information Technology.

[FR Doc. 2018-16224 Filed: 7/27/2018 8:45 am; Publication Date: 7/30/2018]